

Republic of Moldova – national procedures for mutual legal assistance on  
laundering, search, seizure and confiscation of proceeds of crime  
(ETS No. 141)  
Updated 04/01/2019

The information contained in this table should be updated on a yearly basis.

<b>Procedure for search (asset-tracing) and seizure</b>	
The Central Authority (name of the institution, address, telephone, fax and e-mail where available) responsible for mutual legal assistance (including freezing and seizure):	<p><u>At pre-trial stage:</u>  <b>General Prosecutor's Office</b>            73, Ștefan cel Mare și Sfint bd.            MD-2001, Chișinău,            Republic of Moldova            Tel./fax:            e-mail: <a href="mailto:proc-gen@procuratura.md">proc-gen@procuratura.md</a></p> <p><u>At trial stage or later:</u>  <b>Ministry of Justice</b>            82, 31 August 1989 str.            2012, Chisinau,            Republic of Moldova            Tel. / fax: +373 22 201468            e-mail: <a href="mailto:dcji@justice.gov.md">dcji@justice.gov.md</a></p>
If different from the Central Authority, the authority to which the request should be sent (name of the institution, address, telephone, fax and e-mail where available):	No different authority.
Channels of communication for the request for mutual legal assistance (directly, or other):	The request shall be transmitted directly to the central authority of the requested state or via diplomatic channels if so provided in an international treaty.
Means of communication (e.g. by	The request shall be transmitted in original.

post, fax, e-mail <sup>1</sup> ):	<p>In case of emergency the requests can be forwarded through any electronic or other means of telecommunication under the condition that the requesting party shall forward the original request at the same time.</p> <p>No encryption or electronic signature is required.</p>
Language requirements:	<p>Requests for assistance and annexed documents shall be drawn up in Romanian or in one of the official languages of the Council of Europe or accompanied by a translation into one of these languages.</p>
Double criminality requirement, if applicable:	<p>Double criminality is applicable.</p>
Other requirements: for example a link between the proceeds and the criminal offence, or that a request for the confiscation judgment or measure will be made later, <u>or that leave is given by a judge for the seizure of assets/goods:</u>	<ul style="list-style-type: none"> <li>- Relevant information on the link between the measure, criminal offence and the ongoing investigation.</li> <li>- To the request must be annexed the decision given by a judge for the seizure of assets/goods.</li> </ul>
Modalities/requirements for the execution of MLA requests for investigative assistance (search, tracing, special investigative techniques), existence of a central register of real estate/ bank accounts, duration of preservation of bank data, etc.:	<ul style="list-style-type: none"> <li>- MLA investigative assistance are executed by police officers and supervised by prosecutors. From the central authority - General Prosecutor's Office - MLA requests are sent to Prosecutor's Offices and later to Police Inspectorates.</li> </ul> <p>When it is necessary to request information that relates to bank secret or other limited information, the prosecutor submit a request to the investigation judge who authorizes this activity. Then police officers requests and receives information from competent authority or other institutions.</p> <p>After the MLA request is executed, the information obtained is sent by the prosecutor to the GPO, where is verified if all requested actions</p>

<sup>1</sup> Please indicate if encryption or electronic signature is required.

	<p>are carried out and results are sent to the requesting state.</p> <ul style="list-style-type: none"> <li>- There is an electronic register of real estate in the Republic of Moldova. A register of all bank accounts doesn't exist, but all bank accounts of legal entities are listed in the State Register of legal entities and a database at the Main State Tax Inspectorate.</li> </ul>
<p>Limitation of use of evidence obtained:</p>	<p>The evidence obtained can be used for other purposes only with the authorization of the requested State.</p>
<p>Modalities/requirements related to the execution of provisional measures (freezing, prejudgment seizing) including lifting of these measures (possibilities to seize (im)movable properties) and applicable time limits, if any:</p>	<ul style="list-style-type: none"> <li>- Seizure of goods is applied to ensure <u>compensation for damage caused by the crime, civil action</u> or possible <u>special confiscation*</u> or <u>extended confiscation**</u> of goods or the equivalent.</li> <li>- Goods may be seized by a criminal investigative body or by the court only if the evidence collected supports the justified assumption that the suspect/accused/ defendant or other persons keeping the goods subject to sequestration may conceal, damage or dispose of them.</li> <li>- Seizing must be based on an order of a criminal investigative body and the authorization of an investigative judge or, as the case may be, on a court order.</li> <li>- The order of the criminal investigative body or, as the case may be, the court order on seizure of goods shall refer to material goods subject to seizure to the extent such goods are established in the course of the investigation of the criminal case and the value of necessary and sufficient goods to secure a civil action.</li> </ul> <p><b>Procedure</b></p> <ul style="list-style-type: none"> <li>- The prosecutor submits to the investigative judge a request accompanied by the order of the criminal investigation body on the seizure of goods. The investigative judge shall authorize the seizure of goods while the court shall decide if it's provided there is sufficient evidence to support the circumstances set forth in second point.</li> <li>- In trial stage the seizure is disposed by the court.</li> </ul>

	<ul style="list-style-type: none"> <li>- If there are obvious doubt about the voluntary submission of goods to be seized, the investigative judge or, as the case may be, the court along with the authorization for seizure material goods shall also authorize a search.</li> <li>- The seizure of goods based on a court judgment issued upon the completion of a criminal investigation of the case shall be conducted by the enforcement agent.</li> </ul>
<p>Available asset management system including preservative measures, ,(for example prejudgment selling), concerning the <u>seized goods</u>:</p>	<p>A complex asset management system is under development.</p> <p><b>Storage of seized goods</b></p> <ul style="list-style-type: none"> <li>- Seized goods, as a rule, shall be collected, except for real property and large objects.</li> <li>- Precious metals, precious stones and articles thereof; foreign currency; securities and bonds shall be transmitted for storage to the State Depository of Valuables in the line with the set procedure; monetary amounts shall be deposited into the deposit account of the court competent to judgment of the cause the respective criminal case; other collected objects shall be sealed and kept by the criminal investigative body that moved that the goods be sequestered, or shall be transmitted for storage to a representative of the executive authority of the local public administration.</li> <li>- Unsealed sequestered goods shall be sealed and left for storage by the owner or possessor or an adult member of his/her family who receives an explanation of the liability provided in art. 251 of the Criminal Code for the appropriation, alienation, substitution or concealment of these goods and who signs the written receipt.</li> </ul>
<p><b>Procedure for confiscation/</b> Recognition of foreign decisions. Recovery of confiscated assets.</p>	
<p>The Central Authority (name of the institution, address, telephone, fax and e-mail where available) responsible for Confiscation/ recognition of foreign</p>	<p><b>Ministry of Justice</b> 82, 31 August 1989 str. 2012, Chisinau, Republic of Moldova Tel. / fax: +373 22 201468</p>

judgments/decisions/measure:	e-mail: dcji@justice.gov.md
If different from the Central Authority, the authority to which the request should be sent (name of the institution, address, telephone, fax and e-mail where available):	No other authority.
Channels of communication for the request for mutual legal assistance (directly, or other):	The request shall be transmitted directly to the central authority of the requested state or via diplomatic channels if so provided in an international treaty.
Means of communication (e.g. by post, fax, e-mail <sup>2</sup> ):	<p>The request shall be transmitted in original.</p> <p>In case of emergency the requests can be forwarded through any electronic or other means of telecommunication under the condition that the requesting party shall forward the original request at the same time.</p> <p>No encryption or electronic signature is required.</p>
Language requirements:	Requests for assistance and annexed documents shall be drawn up in Romanian or in one of the official languages of the Council of Europe or accompanied by a translation into one of these languages.
Document requirements and modalities/requirements for the procedure of <u>confiscation</u> :	<ul style="list-style-type: none"> <li>- In the Republic of Moldova law provides only conviction based confiscation.</li> <li>- Proceeding from this, competent authorities of Republic of Moldova could perform the request of confiscation, only after recognition of foreign decision of conviction.</li> </ul> <p>* <b><u>Special confiscation</u></b> is the forced and free transfer to the state (propriety) of the following goods (including currency values):</p>

<sup>2</sup> Please indicate if encryption or electronic signature is required.

	<p>a) goods used or intended for use in the commission of a crime;</p> <p>b) goods obtained through the commission of a crime, and any income from the sale or use of these goods;</p> <p>c) goods provided to determine the commission of a crime or to pay the criminal (felon);</p> <p>d) goods possessed contrary to legal provisions;</p> <p>e) goods converted or transformed, partially or integrally, from goods resulting from crimes and from revenues accrued from such goods;</p> <p>f) goods which are the object of offences of money laundering or terrorist financing.</p> <p>If those goods no longer exist, or cannot be found, or can't be recovered, their monetary equivalent shall be confiscated.</p>
<p>Other requirements, if applicable:</p> <p>For example: a link between the proceeds and the criminal offence.</p> <p>In case of money laundering, what are the requirements for the predicate offence(s):</p>	<p>Relevant information on the link between the measure, criminal offence and the ongoing investigation.</p>
<p>Procedure /possibilities to trace assets/proceeds when a (foreign) confiscation order is already given:</p>	<ul style="list-style-type: none"> <li>- In the Republic of Moldova law provides only conviction based confiscation.</li> <li>- Proceeding from this, competent authorities of Republic of Moldova could perform the request of confiscation, only after recognition of foreign conviction decision.</li> </ul>
<p>Procedure for sharing of assets, if applicable:</p>	<p>Asset sharing is not provided directly, but according to art. 113 from the Law nr. 371 "International Assistance in Criminal Matters", the objects confiscated on the basis of the decision of foreign judicial instance, belong to the Republic of Moldova but on demand of the state of condemnation they can be transferred if they are of special interest for it and if there is a reciprocity guarantee.</p>

Where applicable, limitations to the possibility for the requesting state to serve judicial documents directly to the persons concerned:	All requests for mutual assistance have to be forwarded to the Central Authority.
<b>Other particularly relevant information on special types of assistance</b>	
Non Conviction Based Confiscation:	It is not possible because it's not provided by Criminal Procedure Code.
MLA regarding liability of legal persons (criminal, civil or administrative):	Is possible, based on general provisions.
Other information (for example, extended confiscation, confiscation for the purpose of victims):	<p><b>** <u>Extended confiscation</u></b> may take place if the following conditions are simultaneous met:</p> <p>a) The value of assets acquired by the convicted person for 5 years before and after committing the crime, until the adoption of the sentence, substantially exceeds the legally acquired income of this person;</p> <p>b) Based on the evidence submitted in the criminal case, the court finds that those assets derived from criminal activity of the kind mentioned below.</p> <p>Extended confiscation may be applied in case if the person is convicted for offences set forth in article: 158, 165, 206, 208<sup>1</sup>, 208<sup>2</sup>, 217–217<sup>4</sup>, 218–220, 236–240, 243, 248–253, 256, 260<sup>3</sup>, 260<sup>4</sup>, 279, 280, 283, 284, 290, 292, 302, 324–329, 330<sup>2</sup>, 332–335<sup>1</sup> from the Criminal Code of Republic of Moldova, and if the offence was committed for financial interest.</p> <p>If the goods that must be confiscated are not found or were merged with property acquired from legitimate sources, in their place shall be confiscated money and goods covering their value.</p>

	<p>There are also confiscated goods and money obtained from exploitation or use of the goods that are under confiscation, including goods which have been transformed or converted, goods derived from the criminal activities and income obtained from such property.</p>
Links to national legislation, national guides on procedure:	<a href="http://lex.justice.md/">http://lex.justice.md/</a>